

United States
Environmental Protection
Agency

Office Of
The Comptroller
Washington, D.C. 20460

November 1987

Financial Management Division — Superfund Accounting Branch



STATE SUPERFUND FINANCIAL MANAGEMENT AND RECORDKEEPING GUIDANCE





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20450

THE ADMINISTRATOR

To the States:

One of the major Federal initiatives during the last few years has been to provide the States with opportunities for substantial and meaningful involvement in national programs. In writing the Superfund legislation in 1980, it was Congress's intention that the States would assume much of the responsibility for cleaning up the nation's hazardous waste sites. The recent reauthorization of Superfund has furthered those opportunities by increasing the size of the Trust Fund and by defining a greater role for the States.

In keeping with the new authorization, I am pleased to provide you with this document. As Superfund cleanups rapidly increase over the next few years and we near completion on many long-term projects, cost recovery from Responsible Parties will become an ever important and complex responsibility. The approach taken in this guidance is innovative in that it recognizes and allows for the uniqueness of each State and yet permits us to achieve national consistency in the way we approach cost recovery. It is for this reason that I believe this document will provide you with valuable guidance as you plan to participate in future cost recovery actions.

A handwritten signature in black ink, appearing to read "Lee M. Thomas", is positioned above the printed name.

Lee M. Thomas
EPA Administrator

Financial Management Division — Superfund Accounting Branch



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<p><i>Cover photos:</i> <i>front cover: Hilton Head, South Carolina</i> <i>back cover: Euclid Creek Park, Cleveland, Ohio</i> <i>photos by N. Singelis 1987</i></p>

I. INTRODUCTION

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) established the Hazardous Substance Response Trust Fund (Superfund) to provide monies for the identification, prioritization and clean-up of the nation's uncontrolled hazardous waste sites. CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), provides for the recovery of response costs incurred by the Federal government and states from responsible parties. Response costs include expenses for investigatory, clean-up, enforcement and administrative activities. When EPA provides funds to a state to undertake the response action, the state must document its expenses so that EPA may later seek to recover those costs. Although separate legal actions are possible, generally the states and EPA cooperate and pursue a joint cost recovery action against the responsible party(ies).

The resulting need to document costs by site to facilitate Superfund cost recovery actions creates a complex set of financial management and recordkeeping problems. By pulling together all state Superfund financial management and recordkeeping guidance in a single, comprehensive presentation, this handbook is designed to help state agencies receiving Superfund monies to understand and meet their site-specific financial management and recordkeeping responsibilities.

A. PURPOSE

This handbook serves several purposes:

- Establishes consistent and complete guidance covering state Superfund objectives in two areas:
 - Financial management of Superfund expenditures
 - Recordkeeping necessary for cost recovery

- Provides a planning approach to meeting Superfund financial management and recordkeeping objectives
- Acquaints the states with their legal responsibilities and EPA's audit requirements
- Provides guidance on where to go for further information.

B. SCOPE

This handbook summarizes state Superfund financial management and recordkeeping guidance. Because it applies to all U.S. states and territories, it is necessarily broad in scope, focusing primarily on how states can develop financial management and recordkeeping systems that satisfy EPA cost recovery documentation needs. The handbook provides a conceptual understanding of EPA's financial management and recordkeeping objectives, so that state managers have a framework for developing their own procedures to meet those objectives.

C. INTENDED AUDIENCE

This handbook was written with the widest possible audience in mind. It is intended for all state personnel with Superfund-related responsibilities, including staff outside the Superfund program area who may have an important cost documentation role (for example, staff in the state controller's or treasurer's office). Appendix A, on financial management and recordkeeping planning, contains a section on identifying who should both receive a copy of this handbook and be included in the state's planning process.

D. STRUCTURE

The handbook is divided into three chapters and four appendices. The remainder of this chapter explains the legal framework for cost recovery actions, and provides an overview of EPA's financial management and recordkeeping objectives for

Superfund. Chapter II details state financial management guidance for the Superfund program. Chapter III provides guidance on the maintenance and retention of supporting Superfund cost documentation - time sheets, travel vouchers, contractor invoices and other records - in individual financial site files.

Appendix A, "Planning For State Superfund Objectives," is intended for those states not currently meeting all of EPA's Superfund objectives and in need of help in developing a plan to achieve the objectives. Appendix B, "State Legal Responsibilities," provides information on documentation and assistance that states are expected to provide during litigation of a cost recovery case. Appendix C, "EPA Audits," describes the audit process and the results of recent Agency audits of state Superfund programs. Appendix D, "Where To Go For Further Information" is discussed below. A topical index can be found on page 36 at the back of this handbook.

E. REFERENCES

While this handbook is intended to be the primary source for state Superfund financial management and recordkeeping guidance, other EPA manuals and directives contain procedural guidance and background information on many of the topics discussed here. In particular, *State Participation In The Superfund Program* provides guidance on all phases of a state Superfund effort. Appendix D is designed to help state managers determine which reference materials cover the topics in which they are interested.

State managers should not limit themselves to consulting reference materials. EPA regional staff, or Headquarters if necessary, should be consulted for clarification or further detail on EPA objectives. EPA Headquarters staff will work with regional staff to answer fully any questions from states on the topics discussed in this manual.

F. THE LEGAL BASIS FOR COST RECOVERY

The primary purpose of the financial management and recordkeeping objectives described in this handbook is to facilitate Superfund cost recoveries. Tax revenues, plus recoveries from responsible parties, are the main sources of funds for cleaning up hazardous waste sites, and the amount of money that can be raised through taxes is of course strictly limited. Recoveries have the potential of playing a major role in replenishing the Superfund, thereby providing funds for additional clean-up work.

It is important for administrative and program managers as well as their staffs to understand the legal principles underlying the cost recovery objectives outlined in this text. Management should review all Superfund financial management procedures to assess whether the expense documentation their system produces satisfies the legal standards outlined in this section.

The remainder of this section is divided into five parts. The first part provides an overview of CERCLA/SARA cost recovery cases and explains the role of cost documentation in the cases against responsible parties. The three following parts detail the specific legal requirements that must be met in order to document clean-up costs. The final part of this section explains briefly how the government's expense claims are tested in litigation, a topic covered in more detail in Appendix B. Examples are provided throughout to illustrate the legal issues involved.

1. General Legal Requirements

In order to pursue a CERCLA cost recovery action against a responsible party, the government must be able to prove three points: *first*, that the party was responsible for the release or potential release of a hazardous substance; *second*, that the work the government did at the site was necessary

to remedy or prevent such a release of a hazardous substance; and *third*, that the government can accurately document the cost of the remedy or prevention. This handbook will focus on the documentation a state must provide to government attorneys during a recovery action to prove successfully the cost of the remedy. Proof of responsibility and proof of the necessity of the work done are beyond the scope of this handbook.

2. Records Required To Document Expenditures

Over the course of work on a site, a state typically incurs costs in several categories: direct labor by state personnel, travel, supply and equipment costs, contractor costs, and administrative and overhead (“indirect”) costs. A cost documentation package submitted by a state must demonstrate four points about each category of costs in order to stand up in court:

- That the work or purchase was *authorized* by the state
- That the work or purchase was *completed*
- That the state was *billed* for the work or purchase
- That the state actually *paid* for the work or purchase

Together, these four points establish the “history” of an expense item, and assure the court of the validity of that expense.

Clearly, proving all four of these points for each type of expense requires supporting records from various sources. A detailed list of what types of records should be retained for each category of expense is provided in Chapter III; the aim of this section is to provide state personnel with an understanding of *why* specific documents should be kept. To illustrate the four requirements, some examples

are provided below:

Contractor costs require extensive documentation. In order to demonstrate that the contractor’s efforts were *authorized*, a copy of the contract should of course be retained. But in this case, the state’s authorization process begins with a Request For Proposal (RFP) and detailed evaluations of contractor bids; consequently, these should also be retained. Similarly, proving that the agreed-upon work was *completed* requires not just the state’s final sign-off on the contract, but also technical progress reports detailing contractor activity at each stage of the project. Copies of contractor invoices satisfy the requirement for *billing* records, while records showing payment dates, amounts and reference or check numbers would be required to demonstrate *payment* of invoices¹.

Employee labor costs are somewhat easier to document. A list of staff assigned to work on a site, with notation as to their titles, clearly establishes state *authorization* for the work. Timesheets can provide proof of the remaining points under most circumstances. The timesheet itself constitutes a *bill*; moreover, as a form designed to be put directly into the state’s payroll system, it also provides proof of *payment* as long as any subsequent corrections are attached. The signature of the employee and the employee’s supervisor provide *certification* that hours on the timesheet were spent working on the site.

3. Requirements For Documents Submitted As Evidence

Each document submitted as evidence or kept on file to support costs claimed by the state must meet a number of legal requirements speci-

¹ A state’s contractors must be able to provide documentation demonstrating *authorization*, *completion*, *billing* and *payment* for their own expenses, such as salaries, supplies and equipment, subcontractors and so on. See Chapter III for details on documentation requirements for state contractors.

fied in the Federal Rules of Evidence. These legal requirements, designed to ensure the authenticity and reliability of evidence, are as follows:

- The document must have been produced at roughly the same time as the expense was incurred.
- The document must be produced and utilized in the normal course of business.
- An expert witness must be provided if requested to testify to the authenticity and reliability of the document.

For example, a consistent pattern of employees filling out timesheets several weeks or months after the fact would raise questions as to the reliability of the state's time records. Similarly, an accounting report not normally produced and distributed to appropriate supervisory personnel might not be accepted as evidence, because a supervisor not familiar with a report could not testify in court as to the reliability of the information it contains.

4. Requirement That Expenses Be "Reasonable And Necessary"

In addition to the above requirements, only "reasonable and necessary" costs are recoverable. Many of the records that a state must retain serve to prove that costs are reasonable and necessary. For example, travel authorization forms documenting the purpose of staff trips should be retained in order to prove that travel costs claimed by the state were for reasonable and necessary trips.

Recent audits of states' Superfund programs, discussed more fully in Appendix C, have shown that some states have awarded contracts in violation of EPA's procurement regulations as stated in 40 C.F.R. Part 33, and, indeed, in violation of the states' own procurement standards. EPA's procurement regulations are designed to ensure that competitive and cost-effective contractor services

and equipment are obtained by states. Violations of the regulations make it difficult to demonstrate that contractor costs or equipment purchases are reasonable and necessary. Cost-plus-percentage-of-cost contracts, improper bid evaluation procedures and other violations of EPA's procurement regulations may result in the court disallowing these claimed costs. Furthermore, if auditors discover improper procurement practices, claimed contractor costs may be disallowed by EPA, dramatically increasing the state's costs.

5. Testing Of State Expense Records In Litigation

A cost documentation package submitted by a state in a cost recovery action may be successfully challenged by lawyers for the responsible party if any of the standards described above are not met. Opposing counsel can question state personnel under oath on state recordkeeping, financial management, procurement practices and other topics. They can require state managers to respond to written questions on these subjects. In addition, they have the right to examine all supporting expense records in order to search for inaccuracies, inconsistencies and other flaws. Appendix B provides further information on the kinds of inquiries a state may have to respond to in litigation and describes state responsibilities for assisting Federal government lawyers in their handling of a cost recovery case.

G. AN OVERVIEW OF COST DOCUMENTATION OBJECTIVES

This section provides a systematic overview of all the financial management and recordkeeping objectives discussed in this handbook. The term "systematic" applies because successfully meeting EPA's Superfund objectives in these areas requires coordinated action by staff in several functional areas over a long period of time. In order to initiate and maintain this kind of closely-coordinated activity, staff and management need to be able to view specific objectives as part of a larger process.

The focus of this section is a four-page exhibit depicting a hypothetical or “model” financial management and recordkeeping system that meets all EPA Superfund-related objectives, with an emphasis on cost documentation for successful cost recovery actions. The system depicted in the exhibit is not “the answer” to meeting the objectives presented in this handbook. There is no one answer applicable to all states; each state has developed or will develop its own system, according to its own management, structure and internal procedures. The aim of the exhibit, and of this section, is simply to start managers thinking about financial management and recordkeeping objectives in a systematic way.

Six “functional areas” are used in the exhibits on the following pages: Legal, Contracts Administration, Program Office, Recordkeeping, Accounting Operations and Paying Agent. In many states, several of these functions will be housed within the same organization. For example, the “Program Office” and “Contracts Administration” may well be part of the same group. Or, “Contracts Administration” and “Accounting Operations” could be separate offices under the state comptroller’s office. Whatever organization they are part of, each of the six areas is likely to have a different primary supervisor and hence, is treated as a separate function.

Activities in the financial management and recordkeeping model presented here generally occur in three phases, which are described below. Cost documentation is the “thread” which joins all three phases, since cost documentation activities begin the moment work starts at a site and do not end until work is finished and the cooperative agreement is closed out.

Initiation describes the initial steps taken when work (other than a preliminary assessment) begins at a site. Exhibit I-1(a), the first of the four exhibit pages, outlines the initiation phase.

Ongoing Activity represents the day-to-day

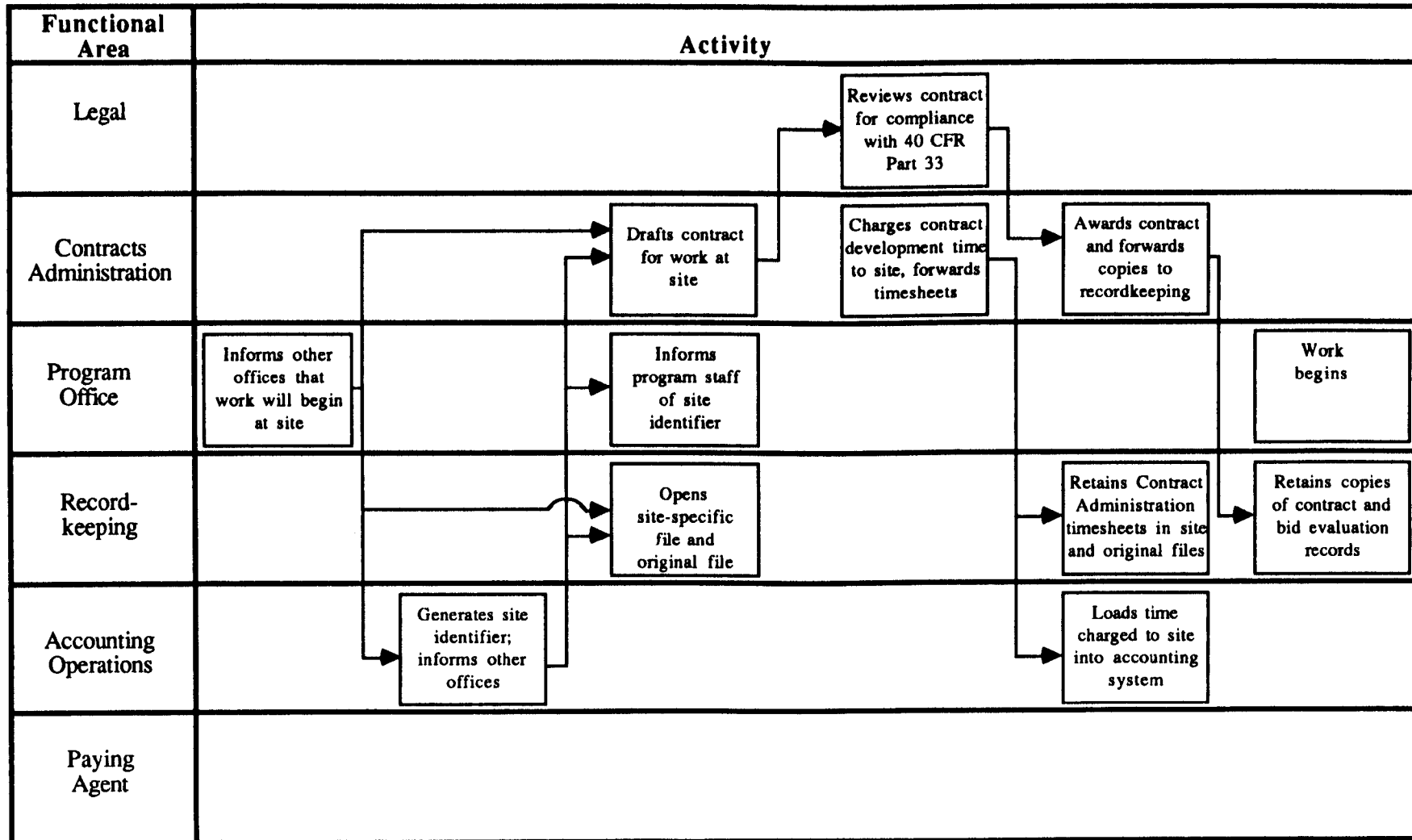
financial management and recordkeeping activities that take place during work at the site. Phase two is depicted in Exhibit I-1(b) and I-1(c), the second and third exhibit pages.

Cost Documentation Package Preparation begins when state program managers receive a request from EPA or the state’s own legal staff for a package detailing the state’s expenses at the site. The key document in a cost documentation package is an up-to-date summary of costs. This summary, which should break out costs by category (salaries, travel, supplies and equipment, etc.), goes in the front of the package. The rest of the package is divided into sections containing supporting documentation for each of the cost categories listed in the summary. If there are a lot of records in any one section, a “section summary” should be included. For example, contractor costs could be summarized with an exhibit listing the total amount paid to each contractor. Reconciliation of all the expense records in each section to the cost summary is the final step in the preparation of a cost documentation package. No cost documentation should be submitted to Federal or state legal staff until the expense records in the package reconcile *exactly* with the cost summary. Exhibit I-1(d) on the fourth exhibit page describes the process of preparing a cost documentation package.

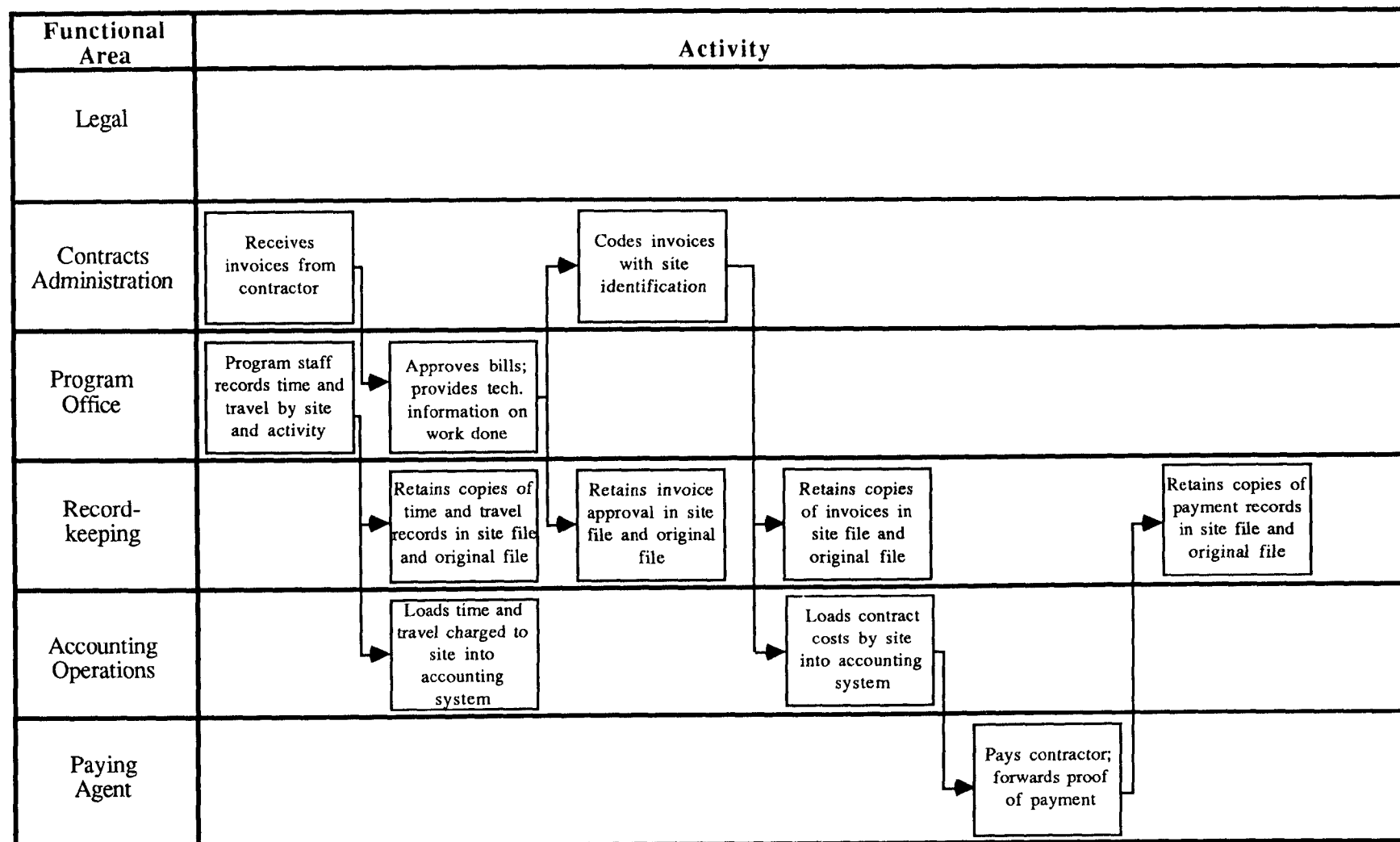
Of course, the activities described in the following exhibit fall out from specific guidance detailed later in this handbook. Readers may want to return to the exhibit after they have read the remainder of the handbook; initially, however, they should focus on trying to look at Superfund financial management and recordkeeping functions as an interrelated cost documentation system.

As intended, the exhibit leaves much unsaid about the specific procedures used to ensure that the six functional areas do exactly what they are supposed to, when they are supposed to. Procedures for implementing a system that meets EPA’s Superfund financial management and recordkeep-

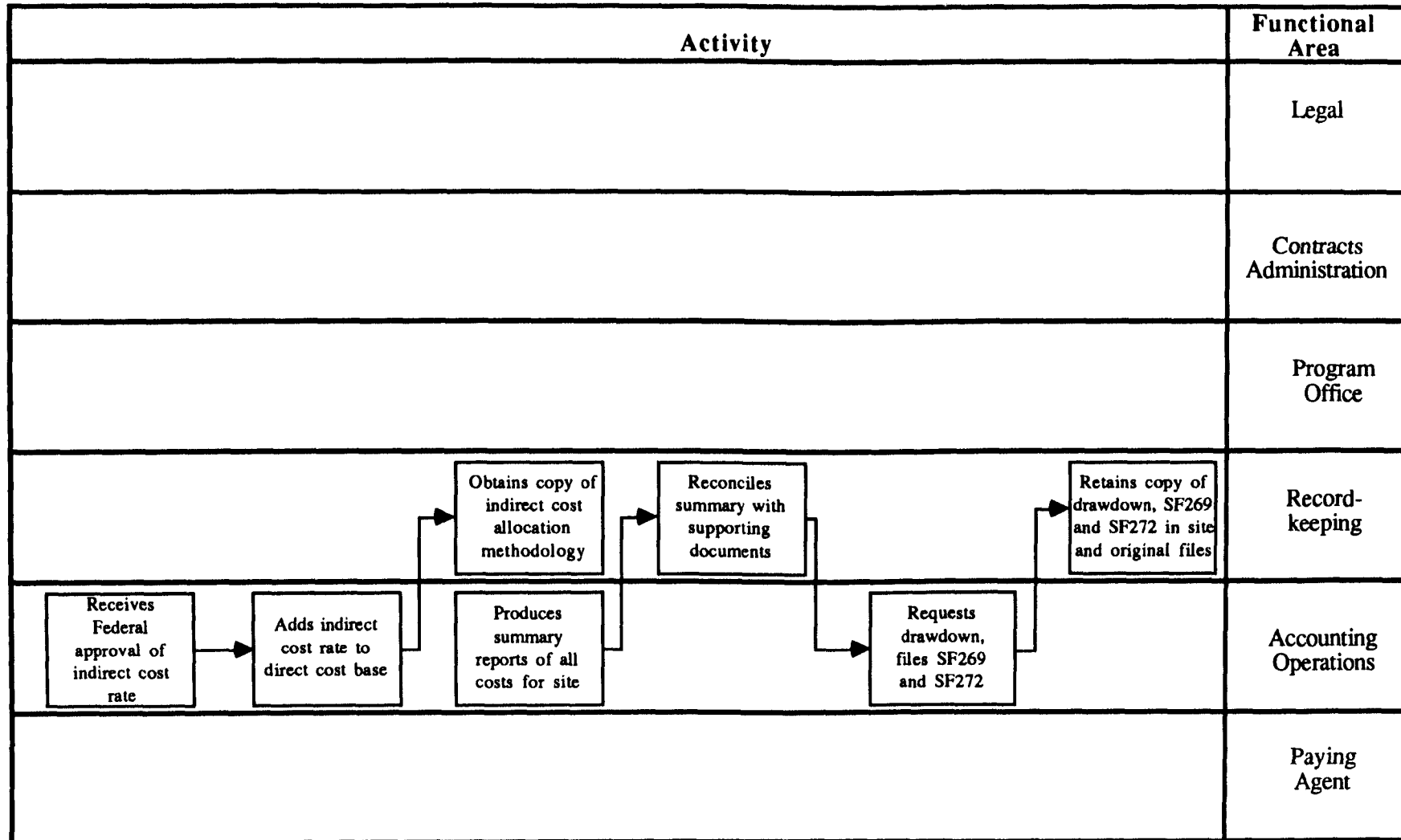
Initiation Phase: An Example



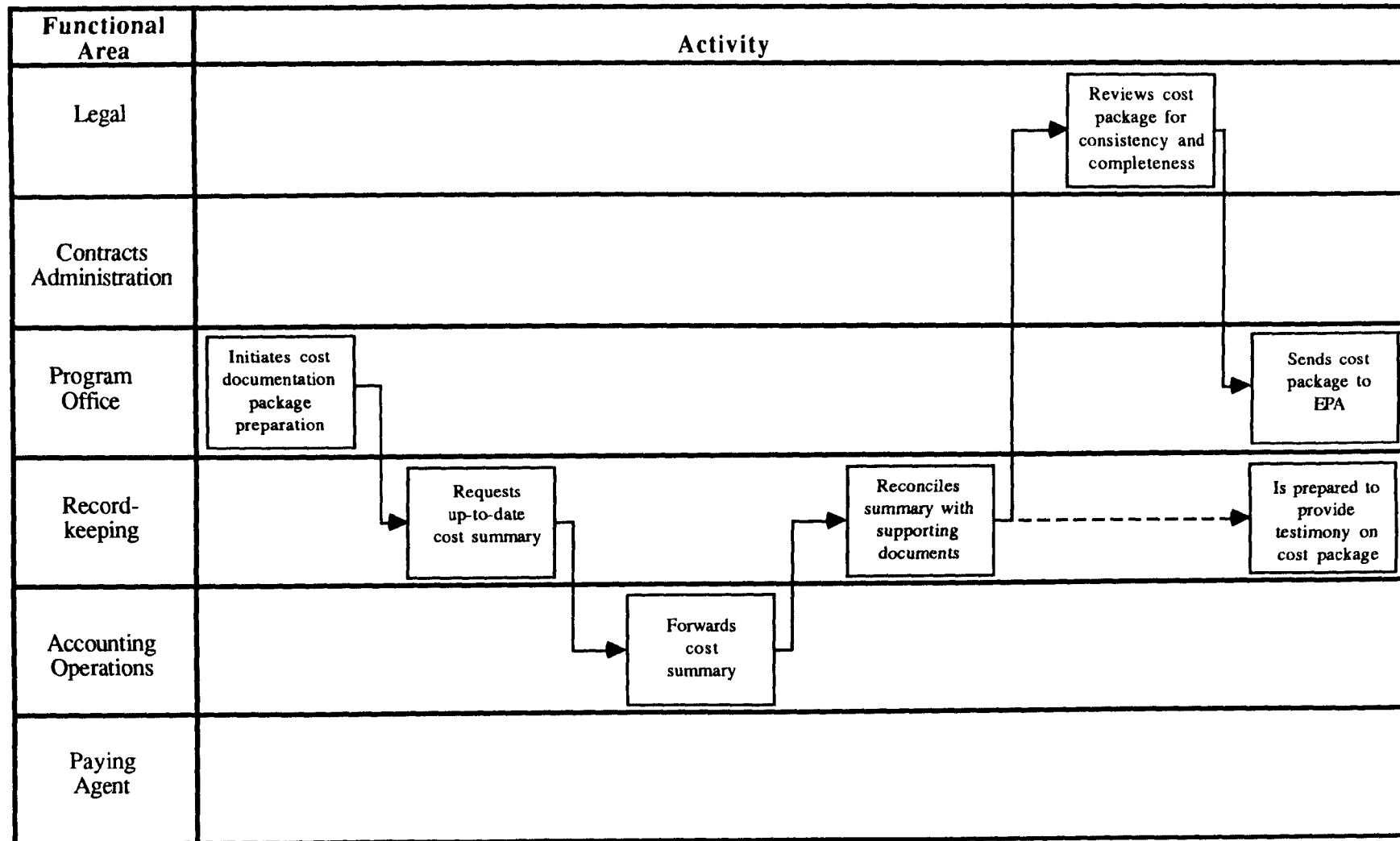
Ongoing Activity: An Example



Ongoing Activity: An Example



Cost Documentation Package Preparation Phase: An Example



ing objectives can only be designed by the states themselves. For managers who realize that their states are not meeting those objectives, Appendix A of this handbook may be helpful. It describes how to initiate a planning process aimed at developing policies and procedures to follow the guidance contained in this handbook.

II. FINANCIAL MANAGEMENT GUIDANCE

This chapter provides guidance to state management personnel charged with meeting EPA's objective of recording Superfund expenses by site and activity. The Superfund program requires state financial management and accounting systems to track expenses by site and activity. This is necessary to ensure that the state and EPA together can effectively recover their respective cost shares from responsible parties. In addition, site and activity specific accounting information provides a crucial check on the completeness of a state's Superfund expense records.

A. OVERVIEW

This initial section provides a general overview of the capabilities state accounting systems should have, and discusses the role of accounting and financial management systems in the cost documentation process. The second section of this chapter provides specific guidance on meeting site and activity specific accounting and financial reporting objectives.

1. State Superfund Financial Management Objectives

The state Superfund financial management guidelines presented in this handbook are designed to ensure that site and activity specific expenditure information is available to state managers, enabling them to file accurate drawdown requests, Financial Status Reports (SF 269s) and Federal Cash Transaction Reports (SF 272s); make site-by-site budgeting decisions; and accurately document site clean-up costs.

To achieve these goals, states are expected to implement site and activity specific costing systems. An integral part of those systems are control procedures to ensure that such accounting information is:

- Accurate; that only costs attributable to a site are charged
- Complete; that all costs attributable to the state's Superfund effort are recorded and charged to individual sites and activities.

These two primary objectives are discussed further below.

2. Accurate Site And Activity Specific Cost Information

State financial management departments must ensure that site and activity specific accounting information is accurate. Audits of state Superfund financial management practices have shown that many states have accuracy problems, including:

- Inaccurate direct labor charging due to clerical errors or questionable time recording practices
- Incorrect application of indirect cost rates
- Duplication of charges, for example, where a cost included in the indirect rate is also charged directly to a site.

There are two procedures to reduce or eliminate the types of financial management problems described above. First, state managers should thoroughly review important financial management procedures. Secondly, site and activity specific accounting reports should be reconciled periodically to supporting cost records, e.g. timesheets, vouchers and contractor invoices. EPA suggests that such a reconciliation be performed at least twice a year.

3. Complete Site And Activity Specific Cost Information

It is crucial for both program management

and cost recovery purposes that accounting information provided by a state's financial management department record all Superfund costs. In particular, staff who maintain files of supporting cost documentation rely heavily on accounting information to decide what expense records to obtain and file. Site and activity specific expense reports serve as a "roadmap" of the costs the state has incurred. Expenses that do not show up in accounting reports cannot be adequately documented; moreover, management will be unable to plan for these expenses in its budgeting process.

Given the importance of recording all Superfund expenses, state managers should review their financial management procedures to ensure that all allowable costs as defined in their agreement with EPA are recorded by site and activity in their accounting system. Guidance on conducting such a review, which EPA calls a "Superfund Expense Accounting Review", is provided in Appendix A. This overview simply outlines the review process and provides some basic Superfund accounting terminology used throughout this chapter and Appendix A.

In reviewing Superfund accounting practices and in reading the remainder of this handbook, some distinctions between the various types of costs a state accounting system must process should be kept in mind:

- *Direct costs* are those expenses which are or should be charged to sites using timesheets, vouchers and other site and activity specific records. The second section of this chapter provides specific guidance on which costs should be charged directly to sites.
- *Indirect costs* are administrative and overhead expenses that support a state's overall Superfund effort. Each state negotiates an indirect cost rate annually with EPA, Department of Health and Human Services (HHS) or another Fed-

eral agency, under the terms of Office of Management and Budget (OMB) Circular A-87. Each state's rate agreement differs in its terms, but typically the rate includes common state charges for rent, data processing, centralized financial operations and other services, as well as salary costs for top departmental managers.

- *Core Program Costs* are Superfund management and administration costs that states do not charge directly to sites or include in the cost base of the negotiated indirect cost rate. Prior to the Superfund reauthorization legislation, these general program administration costs could not be funded by EPA because only management and administration costs *directly charged to sites* were allowable under Cooperative Agreements (CAs). SARA allows EPA to enter into CAs to fund "overall implementation...and administration of remedial efforts." Certain management and administrative costs that are not being charged directly to sites and are not included in a state's indirect cost base may be funded through a separate Core Program Cooperative Agreement (CPCA).

Using these distinctions, state financial managers can catalog their state's Superfund costs and assess whether they are completely accounted for via direct, indirect or core program charges. State financial managers should refer to Appendix A and the second section of this chapter for specific guidance on how their accounting systems should record and report Superfund costs.

B. GUIDANCE

This section presents EPA's accounting and financial management guidance for states participating in the Superfund program. The first part of the section describes how state accounting systems

should record costs by site and activity, and provides suggestions on overcoming accounting system software limitations. The three following parts provide specific guidance on accounting for direct and indirect costs by site and activity, and on accounting procedures for core program costs. Information on filing site and activity specific Financial Status Reports and Federal Cash Transaction Reports for Superfund cooperative agreements is provided in the last part of this section.

1. Superfund Accounting Objectives

The primary Superfund accounting objective is that state accounting systems be capable of producing reports for each Superfund assistance agreement that break out costs by *site*, then by *activity*, and then by the *object class categories* provided for in the state's assistance agreement. EPA has defined seven activities that should be used in all cost reports submitted. The activities and their EPA account codes are as follows:

- J - Pre-remedial Activities
- L - Remedial Investigation/Feasibility Study
- N - Remedial Design
- R - Remedial Action
- E - Removal Action
- S - Operation and Maintenance¹
- 3 - State Liaison.

(A core program cooperative agreement represents an exception to the above procedures, in that core program expenses are for the benefit of a state's overall Superfund program rather than any one site. Consequently, recipients should track core program expenses *by object class category only*. For reporting purposes, all core program expenses fall under EPA's activity code 7, general support and management.)

In order to produce reports at such a level of detail that are both *accurate* and *complete*, state accounting systems should record site, activity and expense class information with each accounting entry for Superfund direct costs. States may use their own accounting codes for tracking costs by activity, but the EPA activity codes must be used for drawdown requests and Financial Status Reports (FSRs).

Many states have developed accounting systems to track expenses by assistance agreement number, which can readily be adapted to meet Superfund site and activity specific accounting objectives. For those states experiencing problems accounting for Superfund direct costs on a site and activity specific basis, Exhibit II-1 on the following page provides some possible solutions.

The primary problem with many site and activity specific accounting systems reviewed by EPA has been that they calculate direct charges to sites using budgeted, "estimated" or average data, rather than actual salary, travel and other costs. Actual costs should be the basis for all reports of direct site charges and accounting systems that cannot report actual costs by site and activity should be updated².

¹ A state must assure EPA prior to initiating a remedial action that it will assume responsibility for all future operation and maintenance (O&M). EPA does not fund O&M of a completed remedy. EPA will only fund that part of the remedial action necessary to ensure that the installed remedy is operational and functional, for a period up to one year. EPA will fund up to 10 years of operation of such treatment or measures involved with the restoration of contaminated ground or surface water or until levels that assure protection of human health and the environment are achieved, whichever occurs first. Both of these situations are considered part of remedial action, and therefore, must be funded under the "R" code.

² A Core Program Cooperative Agreement could be used to fund or help fund certain accounting system updates necessitated by Superfund accounting requirements. It may also be used for microcomputer systems and software to assist states in meeting their Superfund accounting responsibilities.

Suggestions For Solving State Accounting System Limitations

Limitations

State primary financial reporting system cannot accept site and activity specific data

Other secondary accounting systems (e.g. payroll) cannot accept site and activity specific data

Difficult to transfer site-specific data between primary financial reporting system and other systems

Possible Solutions

- Modify accounting software to support additional data fields
- Use fields designated for another purpose to record site and activity information¹
- Develop in-house database to track Superfund costs by site and activity
- Modify accounting software to support additional data fields
- Use fields designated for another purpose to record site and activity information¹
- Develop in-house database to track Superfund costs by site and activity
- Develop software to "down load" from one system to another

¹ For example, one State uses the field designating the assistance agreement number to designate site and activity instead. Since they know which site and activities pertain to which cooperative agreements, they can simply print out expense reports for all sites under a given CA when filing a drawdown request or Financial Status Report.

2. Accounting For Direct Costs

Superfund direct costs should be charged to specific sites and activities *on a regular basis*. Many states simply charge all direct expenses to specific sites and activities as the outlays occur. Some states, however, charge direct expenses to a general purpose account and then make periodic accounting entries to transfer charges from that account to site/activity accounts. If such a procedure is used, direct charges should be “backed out” of general purpose accounts at least monthly, so that the accounting entry is made at roughly the same time the expenses are incurred. The following sections provide detailed guidance on accounting for the major categories of direct costs.

a. State Salary Costs

Staff whose time is to be charged to specific sites should fill out site-specific timesheets for input of site and activity specific charges into the accounting system. Once used to enter information into the state’s accounting system, the timesheet becomes the primary salary expense record to be retained by the recordkeeping staff. *Staff whose salary is included in the cost base for the state’s indirect cost rate cannot charge any hours directly.* Other staff, however, may charge time directly to either a CPCA or a site-specific CA, depending on the nature of their work during a given time period. For example, a staff member may charge 30 hours to the CPCA during a pay period for general administrative work and the rest of his or her time to specific sites. This type of charging must, of course, be backed up by time sheets which clearly document the activities being charged to either a CPCA or a site-specific CA.

b. Travel Expenses

All transportation, meal and lodging expenses incurred traveling to and from sites or on site-specific business should be recorded on a site and activity specific basis³. *It is essential that employee timesheets and travel vouchers agree.* If

an employee submits a voucher for travel to site X and the employee’s timesheet doesn’t show any time charged to site X for that day, *both the salary and the travel charges could be disallowed in an audit.* In addition, such inconsistencies make recovery of those costs difficult.

Expenses for travel to multiple sites should be divided among the sites in a logical way and charged directly. Depending on circumstances, travel costs can be charged in several ways. In most cases, apportioning the total travel cost between sites based on the relative amount of time spent at each site is acceptable. The state’s travel vouchers should provide space for charges to multiple sites.

c. Equipment Costs

Equipment costs should be charged on a site-specific basis. Detailed guidance on procedures for equipment cost accounting, equipment purchases and disposal of equipment is contained in *State Participation In The Superfund Program* and 40 C.F.R. Part 30, EPA’s general requirements for assistance recipients; this section simply outlines equipment accounting procedures.

States have four options for acquiring the use of equipment costing \$10,000 or more:

- Lease the equipment using Superfund money
- Procure a contractor to perform the task using their own equipment
- Purchase the equipment with state funds and charge EPA a usage rate for the equipment
- Purchase the equipment with Superfund money.

³Program staff and senior management whose salary is included in the state’s indirect cost rate should ensure that none of their travel is charged directly to cooperative agreements.

The first two of these options are the easiest, both from an administrative and accounting standpoint. If a contractor is used, accounting procedures are as described in the following section. If equipment is leased, site charges should be generated each month for the sites on which the equipment was used, based on relative amounts of time the equipment was used at each site.

If the state purchases equipment, it should develop a “usage rate” for the equipment based on the estimated life of the equipment. If a piece of equipment is expected to last 1,000 hours, and its cost (purchase price plus estimated maintenance less salvage value) equals \$10,000, then the usage rate is \$10.00 per hour. States should set up a voucher system to record by site the hourly usage of each piece of Superfund equipment and then apply the equipment usage rates to calculate direct equipment charges. A similar procedure should be used for equipment purchased with Superfund money. (Administrative procedures for Federally-funded equipment purchases are more complex than for the other equipment options, however. Before a state can purchase equipment with cooperative agreement funds, it must show that the equipment could not be obtained through leasing, contracting, or state purchase. Also, states must keep an inventory of Superfund equipment, and follow EPA instructions for acquisition and disposition of the equipment as detailed in *State Participation in the Superfund Program*.)

d. Contractor Costs

Contractor costs must also be accounted for on a site and activity specific basis. EPA requires its contractors to submit invoices with costs broken down by site and activity; states must do the same. Contractor invoices should be organized in such a way that state staff reviewing the invoices for payment can quickly identify which charges apply to which sites, and, if the contractor has not already done so, mark the invoices with designated site codes for input into the state accounting system.

3. Accounting For Indirect Costs

Accounting for indirect costs by site and activity is a straightforward process. Each rate agreement will specify the “cost base” to which the rate is to be applied. This information is usually found under the heading “Basis for Application”; typical examples of wording are:

- “Basis for application: Direct salaries and wages plus applicable fringe benefit costs.”
- “Basis for application: Total direct costs including applicable fringe benefit costs but excluding equipment and subcontract costs.”

The indirect cost rate should be applied to site costs exactly as specified. Most state accounting systems make this calculation automatically and create indirect charge accounting entries for each site and activity on a monthly basis. If indirect charges have to be calculated manually for drawdowns and FSRs, accounting reports detailing site and activity costs by object class categories will be helpful in calculating the correct “cost base.”

4. Accounting For Core Program Costs

Core program costs do not need to be attributed to specific sites and activities for drawdown purposes since they are charged directly to a separate core program CA. For cost recovery purposes, however, core program costs do need to be allocated to sites and activities. Separate guidance will describe state responsibilities in this allocation process.

5. Superfund Reporting Requirements

Reporting requirements under Superfund differ from those under other assistance programs primarily in that financial reports must include site

and activity specific expense information. EPA's Financial Status Report (SF 269) must be completed on a site and activity specific basis, and filed

- annually
- within 90 days of the completion of each activity at a site
- within 90 days of the termination of the cooperative agreement.

The Federal Cash Transaction Report (SF 272) is required quarterly and must list drawdown activity by site.

III. RECORDKEEPING GUIDANCE

State recordkeeping procedures for cost documentation are receiving increased attention due to the expansion of state participation in the Superfund program. This chapter provides guidance to state personnel charged with implementing EPA's objectives for the collection, filing and retention of Superfund cost records. It discusses in detail the recordkeeping approach adopted by EPA, called active site filing.

It is important to note that the cost documentation objectives described in this chapter apply to both the state and the state's contractors. States are encouraged to move their contractors toward adoption of the recordkeeping approach outlined in this chapter through the use of specific language in all procurements.

A. OVERVIEW

Effective recordkeeping procedures are essential to cost recovery. This overview describes the objectives state recordkeeping functions are expected to meet and outlines some of the reasons for EPA's adoption of active site filing as the way to meet those objectives. Suggestions on recordkeeping planning are also provided.

1. State Superfund Recordkeeping Objectives

The recordkeeping guidance presented here has two objectives: *first*, a complete set of expense-related records for each site, and *second*, timely access to those site records. As discussed in the introduction to this handbook, incomplete documentation of cleanup expenditures seriously weakens a cost recovery action. Similarly, EPA, Department of Justice (DOJ) and state legal staff need speedy access to state expense records to pursue cost recovery actions effectively.

2. Inability Of Non-Centralized Recordkeeping Systems To Meet Superfund Recordkeeping Objectives

Active site filing, described in detail below, was developed in response to numerous cost documentation problems encountered at EPA. Expense records could not be obtained quickly enough to meet litigation schedules, and they were frequently incomplete. The problems resulted from several factors:

- Records were stored in numerous locations, making retrieval a time-consuming task involving coordination with each location.
- Superfund expense records were commingled with other expense records.
- Records were not stored in a standard order. Timesheets from one region might be ordered by pay period and employee name, while another region would order them by section and employee number.
- Required expense records were sometimes not retained due to confusion over who was responsible for their retention.

The problems described above are a by-product of not having a centralized recordkeeping system for Superfund expense records. Active site files and standard agency-wide filing procedures were developed to centralize the location and standardize the format of Superfund expense records.

3. Active Site Filing

Active site filing is a simple, straightforward process. A unique file or set of files should be set up for each site. As money is spent on the site, expense records are generated, and photocopies of the expense records are placed in the active site files. The originals of expense records should be

filed in separate “Superfund original document files.” In some states, expense records must be returned to the state treasury or a central record storage site. In such cases, it is advisable to store Superfund records separately from other state records, in order to prevent them from being disposed of when other state records are “purged”, *since the retention requirements for Superfund originals are exactly the same as for the site files themselves.* (Retention requirements and microfilming standards for Superfund originals are discussed at the end of this chapter.) EPA has found that the most effective way to protect Superfund original records from accidental disposal is to store them separately from other records.

Where expense records contain charges to more than one site, multiple photocopies should be made, one copy for each site-specific file. In order to facilitate quick retrieval of Superfund expense documents, the site files should all be arranged in the same way. Filing procedures should be documented, to ensure that records are filed correctly. A list of the expense records that should be copied for site files is provided in the second section of this chapter, along with requirements for how long the originals and copies should be retained.

Effective site filing is facilitated if:

- The site files are under centralized control, since they are likely to be better organized if only a few staff members have day-to-day responsibility for updating them.
- Staff responsible for maintaining site files have access to detailed site-specific accounting reports as a check on the completeness of their files (see “Reconciling Site Files” in the next section).

4. Recordkeeping Planning

A recordkeeping system to meet the objectives described in this chapter cannot be developed

without some advance planning. Detailed guidance on recordkeeping planning is provided in Appendix A of this handbook; this section simply discusses some of the basic points that should be considered. In developing a Superfund recordkeeping system, state managers need to decide:

- Who should be responsible for collecting and filing records in the site and original files?
- Which departments generate the expense documents that recordkeeping staff need to pull and copy for site files and then store in original files?
- How do recordkeeping staff get access to original expense documents for copying?
- How should the expense records be ordered in the site files?
- What arrangements should be made for cost-effective and safe long-term storage once activity at the site has ceased and the files are no longer being updated?
- What measures should be taken to ensure that the site files and original files are protected from fire, water and other damage?

B. GUIDANCE

This section provides guidance for the development of active site files. It discusses what types of documents should be retained in active site files, how the files should be ordered, how long the files should be retained, and procedures for periodic reconciliation of expense records.

1. Establishing Site Files

As discussed in the previous section, active site filing involves the maintenance of a separate set of files for each site and procedures for copying

original *expense* records and filing the copies in the site files.¹ In order to minimize the copying burden on the states, EPA has designated certain expense-related records, primarily documents that apply to multiple sites, as exempt from site filing. Exhibit III-1 on the following page lists those documents to which a state's recordkeeping staff should have ready access. An in-depth description of the documents that should be kept in site files follows in the next section.

In addition to the general objective that states maintain active site files, there are two specific objectives state recordkeeping systems are expected to meet:

- All site files should be arranged in the same way and states should develop a single "filing protocol" for Superfund site files. Records for the various types of costs should be kept in the same order; for example, the site file might begin with employee timesheets, followed by employee travel costs, followed by contractor invoices, and so on. Within each cost category, records should be filed the same way in each site file. For example, employee timesheets might be filed by pay period, division and employee number. Each state will have its own filing protocol; what is important is that documents be filed in a consistent order in all site files.
- State recordkeeping systems must be able to provide EPA's regional offices with complete site-specific expense documentation within deadlines set by each regional office. Typically, an EPA

¹ While charges to core program cooperative agreements are not site-specific, the same types of documentation necessary for a site-specific CA (payroll, travel, etc.) should be retained in support of core program charges. Therefore, it may be helpful to think of a CPCA as a "site," and set up a "core program cooperative agreement file" for photocopies of all core program expense records.

Regional Financial Management Office is allowed 30 calendar days to compile a cost documentation package detailing state and regional expenses, so a state would be expected to respond to EPA's cost documentation request within that time frame.

2. Records To Be Retained In Site Files

This section discusses in general terms what types of documentation should be copied and filed in active site files. In addition, notation is made as to what documents should be readily accessible to recordkeeping staff. State managers responsible for Superfund expense recordkeeping should read carefully Section B of the introduction to this handbook, "The Legal Basis For Cost Recovery," in order to understand the rationale behind the guidelines provided in this section.

Records documenting the following areas should be retained for cost recovery purposes:

- Payroll
- Travel
- Contractor Services
- Supplies and Equipment
- Indirect Costs
- Core Program Costs.

Each category of records is discussed more completely below. Exhibit III-2 on page 23 summarizes those records that should be retained in site files.

a. Payroll

Records that show time or attendance of individuals at specific sites should be copied and retained in site files. Subsequent adjustments to

Summary of Documents Required, But Not in Site Files

AREA OF COST	DOCUMENTATION REQUIRED
<i>Payroll</i>	<ul style="list-style-type: none">• Position titles of staff• Salary of staff (annual or hourly rate)• Methodology for determining fringe benefit rate• Authorization
<i>Contractor Services</i>	<ul style="list-style-type: none">• Proposal• Contractor cost data (EPA form 5700-41)• Cost price analysis of proposal and record of negotiations• Proposal evaluations• Contract• Work orders and change orders• Reports on contractor work• Audits of contractor
<i>Supplies and Equipment</i>	<ul style="list-style-type: none">• Type(s) of materials and supplies furnished• Type(s) of equipment• Contracts• Leases• Purchase orders• Receiving reports• Explanation of "usage rate" calculation
<i>Indirect Costs</i>	<ul style="list-style-type: none">• Rate agreement• Rate documentation package
<i>CA and Amendments</i>	<ul style="list-style-type: none">• Cooperative Agreement• Amendments
<i>Core Program Costs</i>	<ul style="list-style-type: none">• All documentation described for categories above.

any timesheet should be photocopied and clipped to the copy of the timesheet in each site file. Recordkeeping staff should also have available documentation on the position titles and salaries of the staff who worked on that site.

If the state's accounting system does not calculate fringe benefit charges automatically, each site file should contain worksheets showing how fringe benefit charges were calculated for that site. If an allowable fringe benefit rate is not specified in the state's negotiated indirect cost rate agreement, the methodology the state uses for allocating fringe benefit costs to sites should be documented (copies of that documentation do not need to be kept in individual site files). In addition, notation should be made of which state official approved the fringe benefit allocation methodology.

b. Travel

The following records relating to travel expenses should be retained in site files: travel authorizations (containing site names) that document the purpose of the trip; travel vouchers submitted by employees showing starting point and destination, transportation method, and the number and names of persons traveling; receipts provided by employees showing actual costs incurred (only major receipts need to be included in site files - hotel, airline, car rental, etc.); and proof that the travel vouchers were paid (for example, a report generated by the state treasury showing checks issued).

c. Contractor Services

A state should be able to document completely its relationship with its contractors. Site files should contain:

- Contractor invoices (contractors should break out costs by site and activity)
- Project officer approval of each invoice

- Proof of payment of the invoices.

In addition, procurement or recordkeeping staff should have available the following records for each contractor doing Superfund work:

- The contractor's proposal/bid
- The contractor's cost data, submitted as part of its proposal (usually on EPA Form 5700-41)
- Cost/price analysis of proposals received and record of negotiations
- Other documents relating to the state's evaluation of contractor proposals
- The contract/statement of work
- Work orders and change orders
- Quarterly technical progress reports
- State audits of the contractor.

d. Supplies and Equipment

Each site file should contain equipment purchase invoices, contractor invoices, or equipment lease bills for all equipment used at the site. Proof of payment records should also be provided in site files (for example, a report generated by the state treasury showing checks issued). If EPA was charged a "usage rate" for equipment, hourly records of equipment use at the site should be included in the site file.

The state should also have available documentation on the type of materials or supplies purchased for use on the site and copies of purchase orders, receiving reports, leases and contracts for supplies. For purchased equipment that is shared between multiple sites, a "usage rate" is developed for each piece of equipment (see Chapter II), and

Summary of Documents Required in Site Files

AREA OF COST	DOCUMENTATION REQUIRED
<i>Payroll</i>	<ul style="list-style-type: none"> • Time attendance records • Time attendance amendments • Worksheet showing fringe benefit calculations (if not calculated by accounting system)
<i>Travel</i>	<ul style="list-style-type: none"> • Authorizations (including purpose of trip) • Vouchers showing: <ul style="list-style-type: none"> Starting point and destination Transportation method Number and names of persons on trip • Receipts, (airline, hotel, etc.) • Proof of payment ¹
<i>Contractor Services</i>	<ul style="list-style-type: none"> • Contractor invoices • Project officer approval of invoices • Proof of payment ¹
<i>Supplies and Equipment</i>	<ul style="list-style-type: none"> • Invoices • Proof of payment ¹ • Hourly records of equipment use
<i>Indirect Costs</i>	<ul style="list-style-type: none"> • Worksheet showing calculations (if not calculated by accounting system)
<i>Core Program Costs</i>	<ul style="list-style-type: none"> • All documentation described for categories above.

¹ Proof of payment must be documented for each expense charged to a site. Generally, a copy of a payment schedule which includes the check number and the amount is sufficient.

the state should have a written explanation of how the usage rate was developed for each piece of equipment used on a Superfund site.

e. Indirect Costs

If the state's accounting system does not calculate indirect charges automatically, site files should contain copies of worksheets used to make indirect cost calculations. Recordkeeping staff should also have available a copy of each year's indirect cost rate agreement (a one to three page document), as well as the package the state prepares to document its annual indirect cost rate proposal.

f. CA and Other Amendments

Recordkeeping staff should have access to copies of the state's cooperative agreements and amendments to those agreements.

g. Core Program Costs

If a state has entered into a Core Program Cooperative Agreement with EPA, recordkeeping staff should have available a copy of the agreement and any amendments. In addition, a "core program cooperative agreement file" should be set up for timesheets, travel vouchers, equipment information and invoices, and all other relevant records described above.

3. Reconciling Site Files

To ensure that all active site files are complete, the files should be periodically reconciled with summary reports produced by the state accounting system. This procedure will identify needed records not included in the site files. In order to make reconciliation and subsequent copying of missing documents a manageable task, EPA recommends that active site files be reconciled to accounting system reports at least twice a year.

4. Storage Media And Record Safety Procedures

States should store active site files in locations as secure as possible from fire, water and other damage. Once activity has ceased at a site, similar provisions must be made for safe long-term storage of site files. At this time, microfilm copying of inactive site files and original expense records is allowed by EPA, provided the microfilming meets certain technical standards (see Appendix D for references).

5. Record Retention Requirements

The state and its contractors are required to retain the documents described in this chapter for a minimum of three years after submission of a final FSR for a site, after which the state and its contractors *must obtain written permission* from the appropriate regional site project officer *before disposing of any of the records described in the chapter.*

APPENDICES

APPENDIX A

PLANNING FOR STATE SUPERFUND OBJECTIVES

This appendix is intended to assist state managers in developing a plan to meet the Superfund financial management and recordkeeping objectives described in this handbook. Effective planning to meet those objectives involves four steps:

1. Identify key players who should be involved in the planning process; put together a group to work on planning.
2. Conduct a detailed assessment of state financial management and recordkeeping practices to determine how well the state currently meets Superfund objectives in those areas.
3. Using the results of the assessment, develop procedures to bring state practices in line with EPA financial management and recordkeeping objectives.
4. Document the new procedures in a handbook or manual to which all employees can refer.

Each of these steps is discussed in detail below.

A. Identify Key Players

Typically, one or two staff members in the state's Superfund program and financial management areas are assigned the task of bringing the state into compliance with EPA objectives. These staff members are unlikely to have the authority and knowledge to develop a new set of financial management and recordkeeping procedures entirely on their own. For this reason, a planning group made up of staff from several Superfund-related areas is an ideal way to approach the planning process.

In order to put together a planning group, it is necessary to identify the "functional areas" that should be represented in the group. Exhibit I-1 may be helpful in this context; it provides an example of a set of procedures to meet Superfund financial management and recordkeeping objectives. In the example, there are six "functional areas" with Superfund responsibilities:

- Legal
- Contracts Administration
- Program Office
- Recordkeeping
- Accounting Operations
- Paying Agent.

In this example, representatives from each of the six functional areas would be included in the planning group because each area has a Superfund responsibility.

State managers putting together a planning group should ask themselves which divisions, bureaus, sections or offices would logically have responsibility for meeting the various financial management and recordkeeping objectives described in this handbook. In some cases, there may not be a formally established functional area; for example, there may not be a recordkeeping section per se. Still, there is probably someone whose responsibilities include Superfund expense recordkeeping; essentially, that person represents the recordkeeping section.

Once the relevant functional areas have been defined, managers leading the state's financial management and recordkeeping effort should recruit suitable staff members from each functional area. Ideally, each representative would be someone with authority who still has day-to-day supervisory responsibility over the functional area. (For

example, a senior manager of a functional area undoubtedly has authority, but he or she may not be close enough to day-to-day operations to contribute substantially to the development of procedures.)

B. Conduct An Assessment Of State Practices

The planning group's first task should be to conduct a detailed assessment of the state's Superfund financial management and recordkeeping practices. This handbook and the references listed in Appendix D should provide the tools necessary to determine whether state financial management and recordkeeping procedures meet EPA's objectives. EPA audits of these areas, if any have been done, will also be useful in the assessment.

This section provides guidance on one important aspect of a state financial management and recordkeeping assessment: ascertaining whether the accounting system tracks and reports on all allowable Superfund costs, as discussed in the overview to Chapter II. EPA recommends that states conduct a "Superfund Expense Accounting Review" as part of its overall assessment of financial management and recordkeeping practices.

The suggested steps in a Superfund Expense Accounting Review are as follows:

1. Determine all types of allowable costs that go into the state's Superfund effort. A checklist similar to the hypothetical example provided in Exhibit A-1 on the following pages may be helpful. The exhibit organizes costs by state departments and subdivisions of those departments, but states should use whichever format suits their situations.
2. Determine whether the Federal cost share of each allowable expense is currently being charged to a site-specific CA or a core program cooperative agreement (see Chapter II for an explanation of these cost categories).

When the planning group begins work on developing new procedures, it should make a determination on how the state's accounting system should record and report any allowable costs that it currently does not.

C. Develop Financial Management And Recordkeeping Procedures

The planning group should use this handbook, other references and EPA audit reports as sources for suggestions on specific procedures to meet Superfund financial management and recordkeeping objectives. In addition, EPA regional office staff can answer specific questions raised by the planning group and provide suggestions on procedures based on practices in their regional office.

D. Document The New Procedures

After new financial management and recordkeeping procedures have been developed, it is important to document the procedures in a manual or pamphlet for employees to use. The documentation should cover:

- The purpose of the procedures
- Responsibilities of the functional areas assigned to implement the new procedures
- Filing procedures and protocols
- Document flows and sources
- Reconciliation procedures and how often they should be performed
- Methods for updating the procedures in response to new state or EPA initiatives.

State Expense Accounting Checklist: An Example

<u>Cost Category</u>	<u>Costs are eligible under this Method of Charging¹</u>
1. Department of Environmental Protection	
Director ²	Indirect
Deputy Director	Indirect
Rent, telephone, electricity, etc.	Indirect
DP and other centralized services ³	Indirect
Bureau of Waste Management	
Bureau Chief	Indirect
Deputy	Indirect
Secretary / Clerical	Indirect
DP and other centralized services	Indirect
Division of Emergency and Remedial Response	
Division Head	Indirect
Deputy Division Head	Indirect
DP and other centralized services	Indirect
Remedial Response Section And Emergency Response Section	
Section Heads	Direct or Core ⁴
Deputy Section Heads	Direct
Remedial Project Manager	Direct
Secretarial / Clerical	Direct or Core
DP and other centralized services	Indirect
Personal Computers and software (general use)	Core
Equipment	Direct
Contractor Costs	Direct

Footnotes:

1. Method of charging travel to Superfund will coincide exactly with method of charging labor, i.e. direct, indirect, or core.

2. For the purposes of this example, the functional areas used in Exhibit I-1 are under three State departments: Program Office, Contract Administration, and Recordkeeping are part of the State's Department of Environmental Protection; Accounting Operations and Paying Agent are under the Department of Treasury; Legal is its own department.

3. Includes charges for services supplied on a statewide basis: data processing (computer time and report generation), financial services (payroll and other payment services), security, mailroom operations and so on.

4. Core program charging is an optional method of capturing a state's Superfund costs. In this exhibit, we highlighted some of the areas that are eligible under Core Program CAs. These CAs must be applied for and negotiated separately, however. Allowable expenses under CPCAs are decided on a case-by-case basis.

Checklist (cont.)

<u>Cost Category</u>	<u>Costs are eligible under this Method of Charging</u>
Recordkeeping Group Costs	
Project Officers	Core
Secretarial / Clerical	Core
Personal Computers and software for use in recordkeeping	Core
Contracts Administration Division	
Section Head	Indirect
Deputy Section Head	Indirect
Project Officers	Direct
Secretarial / Clerical	Direct
DP and other centralized services	Indirect
Personal Computers and software for use in tracking Superfund contracts	Core
2. Department of Treasury	
Accounting Operations Division	
Project Officers	Indirect
Secretarial / Clerical	Indirect
State Payments Division	
Project Officers	Indirect
Secretarial / Clerical	Indirect
3. Legal Department	
Legal Staff	Direct or Indirect
Secretarial / Clerical	Direct or Indirect
DP and other centralized services	Direct or Indirect

APPENDIX B**STATE LEGAL RESPONSIBILITIES**

As noted in the introduction, state expense claims can be questioned in litigation. Unless both parties “stipulate” in advance the correctness of the state’s expense claims, which is extremely unlikely, legal counsel for the responsible party is entitled to review the evidence for a state’s claims, while the government’s lawyers are allowed to introduce documents and testimony in proof of those claims. Information on the state’s expense claims can be included in the court record in four ways:

- Interrogatories
- Affidavits
- Depositions
- Expense documents.

State responsibilities in each of these areas are described below.

A. Interrogatories

Interrogatories are a written set of questions submitted by either party in a lawsuit to the opposing party. Unless improper under applicable legal rules, the questions must be answered. In a cost recovery case, questions directed to state recordkeeping and financial management staff generally will be directed toward identifying the nature of documents submitted in the state’s cost recovery package and the process used to compile that package. State, EPA or DOJ legal staff litigating a cost recovery case can provide guidance to state financial management and recordkeeping staff in responding to interrogatories.

B. Affidavits

Affidavits are written statements of fact based on personal knowledge that are made under

oath. State financial management and recordkeeping staff may be asked by state, EPA or DOJ legal staff to prepare affidavits that can be used as evidence to support elements of the state cost documentation package.

C. Depositions

A deposition is typically an oral question and answer session, completed under oath, that is admissible as evidence in court. In a cost recovery action, the potentially responsible parties may depose state financial management or recordkeeping staff. Attorneys for the responsible party will want to question state staff in order to highlight any weaknesses in the cost documentation package.

Witnesses for the cost documentation portion of a CERCLA/SARA recovery case are typically asked detailed procedural questions about how the state calculated various types of costs. If the cost documentation provided to the court falls short in any of the areas discussed elsewhere in this handbook, the witness will be asked about those points. For example, if the responsible party’s legal counsel noted that employee timesheets were frequently filled out well after the fact, the state witness would probably be asked what procedures are in place to ensure that employees record time accurately. If state accounting system reports appeared inconsistent or incomplete, a witness might be asked to describe how the accounting system tracks costs by site. Or, if the state were unable to provide bid evaluation records due to a recordkeeping deficiency, a witness might be asked about state compliance with Federal procurement regulations.

Cost records that meet the requirements discussed in this handbook section make the witness’ job easier. Effective preparation is also important. The witness should be thoroughly familiar with the portion of the cost documentation package on which he or she is to testify, especially the more complex parts of the package, such as the methodology for calculating equipment usage rates, or procedures used in preparation of cost summaries.

Any state employee scheduled to be deposed should be accompanied by a state, EPA or DOJ lawyer, and all state activities in connection with a cost recovery case should be coordinated through Regional Legal Counsel.

D. Expense Documents

Lawyers for the responsible party are entitled to review all state expense records that are not protected by a legal privilege. If the state receives a request for production of documents, it must comply. Certain types of personal and business information are protected by law in many states, however. To protect such information, a state may try to exclude documents containing protected information from the package to be delivered to opposing legal counsel, or it may block out sensitive information contained in the documents, a process called "redacting." The following types of information are often protected from public disclosure under state law:

1. Personal Information

In general, non-business information provided by individuals that is contained in state records may be protected from disclosure under state law. The following list, which is not all-inclusive, identifies the kind of information that may have to be removed from documents given to opposing legal counsel:

- Social security numbers
- Credit card numbers
- Type of credit card
- Home addresses
- Home telephone numbers
- Non-business calls on personal telephone bills

- Drivers license numbers
- Comments on travel vouchers
- Vacation and sick leave balances
- Timecard or timesheet comments
- Coded information on the front of time-cards.

2. Business Information

Information that would allow a competitor to deduce a state contractor's actual costs is protected in many states. Invoices and cost data submitted with proposals typically fall into this category, although other documents may also.

APPENDIX C

EPA AUDITS

In signing an EPA/state cooperative agreement, the state gives EPA the right to audit that agreement, pursuant to the Inspector General Act of 1978 (PL 95-452), CERCLA Section 111 (k), and 40 CFR 30.540. This appendix provides guidance on how EPA auditors review state financial management and recordkeeping procedures, and the problems encountered in recent Superfund Cooperative Agreement audits.

EPA may audit a Superfund CA while the agreement is in effect, called an interim audit, or may conduct a final audit at the completion of the Federally funded activities. In either case, the objectives of an EPA audit are twofold: *first*, to determine whether the costs the state has claimed under the agreement are allowable and allocable to the project under the terms of the CA and applicable EPA and Federal regulations; and *second*, to determine whether controls and procedures developed by the state in its financial and project management, recordkeeping, accounting, procurement, subagreement administration and property management systems meet EPA and other Federal requirements.

This appendix will concentrate on the issues concerning the states' ability to provide responsible accounting, timely and accurate reporting, and effective procedures for indirect cost allocation, contractor procurement and equipment purchases. A detailed discussion of audit procedures, schedules, tasks, findings and resolutions is addressed in *State Participation in the Superfund Program*.

A broad range of financial and administrative areas are audited periodically for compliance with Federal requirements. This appendix will discuss only those areas where requirements are specific to Superfund CAs. For further information on the categories discussed below, refer to the appropriate

chapter of this manual or the *Assistance Administration Manual*. Additional information on audit procedures is found in Chapter 38 of the *Assistance Administration Manual* and *OIG Audit Guide EAG-3 of CERCLA Cooperative Agreements*. Detailed audit procedures and findings are provided below for the following areas:

- Procurement
- Financial Recordkeeping and Reporting
- Letter of Credit Drawdowns
- Indirect Cost Allocation
- Property Management.

A. Procurement

States are required to provide auditors with proof that they have complied with the requirements found in 40 CFR Part 33, "Procurement Under Assistance Agreements." Under these Federal regulations, states are required to use the process of formal advertisement and competitive bids for procurement awards to the greatest extent possible. In addition, states are prohibited from entering into cost-plus-percentage-of-cost type contracts. Recent EPA audits have noted several instances of non-compliance with procurement requirements, due mostly to a lack of familiarity with the requirements on the part of state contracts administration staff. The audits have also noted that the methodology used for awarding contracts is often poorly documented or not documented at all.

B. Financial Recordkeeping and Reporting

Audits in this area are concerned primarily with the states' accounting procedures for assigning costs directly to specific sites, and applying the state's negotiated indirect cost rate correctly. State accounting system internal controls are also examined, as are state financial reporting practices.

Site-specific accounting procedures have been the subject of several critical audit reports. The audits found state accounting procedures inadequate to record and accumulate costs and incapable of properly distributing personnel and fringe benefits charges. The procedures used to record and report employee time and fringe benefits often did not accurately represent the actual time worked at a particular site. Unacceptable recordkeeping practices allocated employee indirect time as direct time expense in one case and transferred labor costs between agreements in another. Also, audits disclosed that some states are not separating allowable and unallowable costs in accounting records.

C. Letter of Credit Drawdowns

Audits of letter of credit (LOC) drawdown procedures focus on whether states have written procedures to determine drawdown amounts and whether they maintain complete records of drawdown activity. Specifically, states are required to keep a LOC payment schedule for individual CAs. The LOC payment schedule must contain the existing balance, the drawdown date and amount authorized, additional funding (if the CA is amended) and the new beginning balance. The drawdown voucher, or request for funds, should reconcile with the General Ledger. The drawdown amount should be supported by site-specific computer summaries and expense records. State managers may find the *Letter of Credit - Treasury Financial Communications System Recipient's Manual* useful in understanding LOC requirements (see Appendix D for reference information).

Audit findings indicate that increased management attention must be focused on the LOC system and written LOC procedures. Audits disclosed that states failed to submit financial reports and drawdown vouchers in a timely manner and to calculate properly the drawdown amount. Other problems cited in connection with drawdown procedures include: states using an incorrect account number for activities at a particular site; states not

properly calculating their cost share at the time of the drawdown; and states drawing down more than the amount incurred for the completion of an activity.

D. Indirect Cost Allocation

EPA audits of state indirect cost practices are concerned primarily with whether the state's negotiated indirect cost rate is being correctly applied. Audits have disclosed that some states have misapplied the rate, while others have not used the approved rate at all in calculating Superfund indirect charges. (For example, some state environmental protection departments have simply calculated the percentage of their total funding coming from Superfund and charged that percentage of their indirect costs to Superfund CAs.)

E. Property Management

EPA's property management requirements are explained in Chapter 26 of the *Assistance Administration Manual*, "Property Management," and Chapter 27, "Real Property Acquisition." These chapters are based on the property management requirements contained in 40 C.F.R. Part 30.531. The major requirements are that states maintain accurate property records for Superfund equipment and property, documenting:

- Property identification information
- Acquisition data and cost
- Percentage of cost paid by the Federal Government
- Holder of title (state or Federal Government).

In addition, states are required to contact EPA for instructions on disposal of unneeded property and to pay EPA its share of the proceeds of a sale of property. Audits of state property management practices have shown that many states have failed

in some or all of these requirements. In particular, states frequently do not maintain an accurate property listing and often fail to record equipment purchases.

APPENDIX D**WHERE TO GO FOR FURTHER INFORMATION**

This appendix provides state managers with information on available reference materials. The appendix lists and gives a brief synopsis of the EPA and other Federal reference materials that could be useful to state managers.

The references listed below contain information that state managers can use to develop their approach to the financial management and recordkeeping guidance presented in this handbook. Some of the manuals do not specifically address state guidance, but they contain useful background information. Most of the references listed can be obtained through the EPA's regional offices or by contacting EPA Headquarters directly. Materials published by other government agencies can be obtained by calling the agency directly. Legal references can be obtained through state legal departments. Suggested reference sources are as follows:

**A. Office of Management and Budget
Circular A-87**

This circular discusses procedures for indirect cost allocation and submission of state indirect cost allocation plans for Federal approval. It provides methods of calculating indirect cost rates and obtaining EPA approval for those rates.

**B. 40 Code of Federal Regulations (C.F.R.)
Part 30**

This part of 40 CFR contains the EPA general requirements for assistance recipients.

C. 40 C.F.R. Part 33

This part of 40 CFR contains the EPA procurement requirements for subagreements that

states award under their cooperative agreement.

D. Federal Rules of Evidence

The body of rules relating to the admissibility of documents as evidence in Federal court proceedings is called the *Federal Rules of Evidence*, and can be found under Title 28 of the United States Code (28 U.S.C.).

**E. Letter of Credit - Treasury Financial
Communication System (LOC - TFCS)
Recipient's Manual**

This EPA manual discusses the requirements for establishing a Letter of Credit and amending it if necessary. Also, procedures for drawing down the necessary funds are explained. A section on Financial Status Reporting is also included.

**F. State Participation In The Superfund
Program**

This EPA manual provides detailed guidance on most state Superfund program and financial requirements.

**G. Financial Management Procedures For
Documenting Superfund Costs**

This EPA manual, known as the Blue Book, provides complete information on Superfund legal, accounting, financial management and recordkeeping requirements. The Blue Book was written for the ten EPA regional financial management offices and can be used for general background information on Superfund financial management and recordkeeping requirements.

H. Assistance Administration Manual

This EPA manual describes specific requirements for all EPA assistance recipients. Key chapters are as follows:

- Chapter 19 - Recipient Record Requirements
- Chapter 20 - Accounting And Internal Management
- Chapter 21 - Procurement Under Assistance Agreements
- Chapter 22 - Cost and Price Analysis
- Chapter 26 - Property Management
- Chapter 27 - Real Property Acquisition.

**I. Resource Management Directive System
2550 D**

This EPA manual provides agency-wide policies and procedures for the Superfund program.

J. Hardcopy Standards Set

The American National Standards Institute sets technical standards for microfilming of records that should be followed by states wishing to microfilm Superfund expense documents. The complete set of microfilm standards, called the *Hardcopy Standards Set*, is available from:

Association For Information And Image
Management
Suite 1100
1100 Wayne Avenue
Silver Spring, MD 20910
(301) 587-8202

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